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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,494	06/30/2003	Brian J. Smyth	600754-3U1	6765

7590 02/09/2007  
AKIN GUMP STRAUSS HAUER & FELD LLP  
One Commerce Square  
Suite 2200  
2005 Market Street  
Philadelphia, PA 19103-7013

EXAMINER
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MANCHO, RONNIE M

ART UNIT	PAPER NUMBER
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3663

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
31 DAYS	02/09/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/611,494

Applicant(s)

SMYTH ET AL.

Examiner

Ronnie Mancho

Art Unit

3663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 16-57 and 81-94 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 16-22, 23-43, 44-57, 81-94 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 16-22 are drawn to a computer-implemented method of creating a virtual traffic network, classified in class 701/208.
  - II. Claims 23-43 are drawn to a computer-implemented method for entering traffic information, classified in class 701/117.
  - III. Claims 44-57 are, drawn to a computer-implemented method of rendering traffic data representing traffic conditions, classified in class 340/918, 917.
  - IV. Claims 81-94 are drawn to an article of manufacture for creating a virtual traffic network, classified in class 707/02

The inventions are distinct, each from the other because of the following reasons:

2. Inventions (I/II/III) and (IV) are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). the apparatus as claimed can be used to practice another and materially different process. That is the apparatus can be used for displaying data related to cartoons.
3. Inventions (II) and (I/III) are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant

Art Unit: 3663

case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination as claimed does not require the particulars of the subcombination as claimed for patentability. The subcombination has separate utility such as inputting map data representing a road system.

The examiner has required restriction between combination and subcombination inventions. Where applicant elects a subcombination, and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

4. Inventions (I) and (III) are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination (I) has separate utility such as inputting map data representing a road system. See MPEP § 806.05(d).

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional

Art Unit: 3663

application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

5. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

6. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

7. This application contains claims directed to the following patentably distinct species. The species are independent or distinct because of the patentably distinct embodiments in applicant's disclosure.

Upon election of I, II, III, or IV above, the applicant is required under 35 U.S.C. 121 to further elect a disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no generic claims are allowable.

Elect:

A1. traffic information is input by a traffic operator, only or

A2. traffic information is input by using one or more electronic traffic forms, only.

Art Unit: 3663

Upon election of A1 or A2 above, the applicant is further required under 35 U.S.C. 121 to elect a disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no generic claims are allowable.

Elect:

- B1. at least one traffic parameter field includes location information, only or
- B2. at least one traffic parameter field includes an end location, only or
- B3. at least one traffic parameter field corresponds to the road system of, only.

Upon election of B1, B2, or B3 above, the applicant is further required under 35 U.S.C. 121 to elect a disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no generic claims are allowable.

Elect:

- C1. traffic data obtained in (d) includes travel time, only or
- C2. traffic data obtained in (d) includes delay time, only or
- C3. traffic data obtained in (d) includes congestion information, only or
- C4. traffic data obtained in (d) includes speed, only.

Upon election of C1, or C2, or C3, etc above, the applicant is further required under 35 U.S.C. 121 to elect a disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no generic claims are allowable.

Elect:

- D1. defining one or more renditions of traffic data, only or

Art Unit: 3663

D2. defining a plurality of renditions of traffic data, only.

Upon election of D1 or D2 above, the applicant is further required under 35 U.S.C. 121 to elect a disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no generic claims are allowable.

Elect:

E1. the group of traffic items represents traffic data for a single direction, only or

E2. the group of traffic items represents traffic data for two different directions, only.

Upon election of E1, or E2 above, the applicant is further required under 35 U.S.C. 121 to elect a disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no generic claims are allowable.

Elect:

F1 each of the links on the traffic flow display is color coded, only or

F2. each of the links on the links on the traffic flow display is animated, only.

Upon election of F1 or F2 above, the applicant is further required under 35 U.S.C. 121 to elect a disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no generic claims are allowable.

Elect:

G1. the animated flow display is rendered in video format, only or

G2. the animated flow display is rendered in broadcast television format, only or

G3. the animated flow display is rendered in satellite broadcast format, only or

G4. the animated flow display is rendered in cable television format, only.

Art Unit: 3663

Upon election of G1, or G2, etc above, the applicant is further required under 35 U.S.C. 121 to elect a disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no generic claims are allowable.

Elect:

H1. the animated traffic flow data is updated by inputting traffic information and flow data, only or

H2. the animated traffic flow data is updated in real time, only.

The applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

8. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and



Art Unit: 3663

specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

9. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

#### *Communication*

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronnie Mancho whose telephone number is 571-272-6984. The examiner can normally be reached on Mon-Thurs: 9-5.

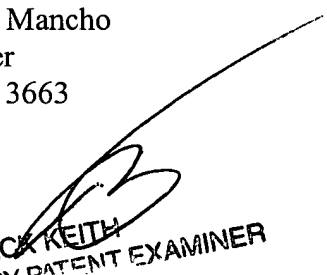
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3663

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ronnie Mancho  
Examiner  
Art Unit 3663

2/3/07

  
JACK KEITH  
SUPERVISORY PATENT EXAMINER